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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,046	03/29/2004	Lawrence J. Koncelik JR.		1439

7590 12/30/2004

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EXAMINER

PASSANITI, SEBASTIANO

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

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12272004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See attached explanation.


Sebastiano Passaniti
Primary Examiner
Art Unit: 3711

DETAILED ACTION

This Office action is responsive to communication received 10/08/2004 – Election.

At the outset, it is noted that the last Office action, mailed 10/08/2004 contained an inadvertent error in identifying the claims under the restriction set forth on page 2 of the action. Particularly, claim 13, which depends from claim 2, and claim 19, which depends from claim 13, inherit the limitations of claim 2. With claim 2 being included with the Group II set of claims, it is clear that claims 13 and 19 should likewise be included with the Group II set of claims.

While the error would not appear to significantly affect the outcome of the restriction requirement and subsequent election by the applicant, any inconvenience to the applicant at this time is sincerely regretted.

The identification of claims for the Group I and Group II set of claims should be as set forth below. The identification of the Group III set of claims remains the same as set forth below:

Group I: Claims 1, 8-12 and 14-17;

Group II: Claims 2-7, 13, 18 and 19;

Group III: Claims 20-25.

In addition, the last Office action of 09/17/2004 set forth a requirement that an election be made among several species identified, in the event that the applicant elects to prosecute the claims of Group I or Group II.

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In response to the election/restriction requirement, the applicant responded by election of Invention I (claims 1, 8-17 and 19) and also election of Species I (Figures 1-4). Based upon the corrected grouping of claims outlined above, the election of Invention I is understood to include claims 1, 8-12 and 14-17. The election of Species I (Figures 1-4) remains unchanged.

However, the reply filed on 10/08/2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

While the applicant has elected Species I, there has not been any indication on the part of the applicant as to which claims are deemed to read on the elected species (Figures 1-4). **In other words, of the claims in Group I, applicant must include a listing of which of these claims are readable on Species I (Figures 1-4).**

Under 35 U.S.C. 121, applicant is required to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, **and a listing of all claims readable thereon**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election. (emphasis added).

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

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are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sebastiano Passaniti whose telephone number is 571-272-4413. The examiner can normally be reached on Mon-Fri (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sebastiano Passaniti
Primary Examiner
Art Unit 3711

S.Passaniti/sp
December 27, 2004